

## **MINUTES**

### **MONTANA SENATE 56th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON TAXATION**

**Call to Order:** By **CHAIRMAN GERRY DEVLIN**, on January 15, 1999 at 8:00 A.M., in Room 413/415 Capitol.

#### **ROLL CALL**

**Members Present:**

Sen. Gerry Devlin, Chairman (R)  
Sen. Bob DePratu, Vice Chairman (R)  
Sen. John C. Bohlinger (R)  
Sen. Dorothy Eck (D)  
Sen. E. P. "Pete" Ekegren (R)  
Sen. Jon Ellingson (D)  
Sen. Bill Glaser (R)  
Sen. Barry "Spook" Stang (D)

**Members Excused:** Sen. Alvin Ellis Jr. (R)

**Members Absent:** None

**Staff Present:** Sandy Barnes, Committee Secretary  
Lee Heiman, Legislative Branch

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: None  
Executive Action: SB 49; SB 127

#### **EXECUTIVE ACTION ON SB 49**

#### **Discussion:**

**John Tubbs, Department of Natural Resources and Conservation**, presented the amendments to **SB 49**, which the Department had requested. He stated that the first two amendments are simple coordination amendments with the main sections of the bill that have changed. The third amendment reduces the 15.5% of the metal mines tax which was being deposited into the orphan share fund to

8.5%. The reduction reflects funds moved out of the orphan share account and back into the reclamation and development account from where it originally came.

**Mr. Tubbs** said that in no. 4, the reclamation and development grants account would receive 7% of the total collections of the metal mines tax. That 7% under the current form of the bill would have been deposited into the orphan share account, and the amendment pulls it back into the reclamation and development account.

**SEN. ELLINGSON** asked **Mr. Tubbs** why initially the percentage went from 8.5% to 15.5% to the orphan share account and is now being reduced. **Mr. Tubbs** explained that the Department was trying to overcome the objections of the oil and gas people to the large increase of funding to the orphan share account from these revenues. He said also that since the bill was created, the Revenue Oversight Committee has determined that agency appropriations could not be supported as the bill was written.

**SEN. ELLINGSON** asked why the oil and gas industry doesn't like more money going into the orphan share account when this is money from the metal mines tax. **Mr. Tubbs** said that they objected to the \$1.8 million figure in general.

**SEN. ECK** asked about the requests for funds for the orphan share account, and whether there were more requests than could be covered. **Mr. Tubbs** said there is more liability than could be covered but not necessarily requests. **SEN. ECK** wondered what the money was used for at this time. **Mr. Tubbs** explained that these funds are for the state Super Fund sites where the contamination is caused by parties that are no longer in existence or are bankrupt. The DEQ has been able to identify approximately \$50 million of cleanup associated with that type of contamination. However, under the bill, a party must take action for cleanup first and then they are reimbursed by the fund. There may be some cleanup going on, but **Mr. Tubbs** said he was not aware of any approval of any reimbursement.

**Motion:** **SEN. EKEGREN** moved **AMENDMENT SB004901.ALH, EXHIBIT (tas11a01)**.

**Further Discussion:**

**Mr. Tubbs** continued through the amendments, stating that nos. 5, 6, 7, 8 and 9 were just coordinating amendments. No. 10 is a significant change. **Mr. Tubbs** said this is the RIGWAT tax, and with the amendment, 50% would be deposited to the trust; \$300,000, a fixed amount, would be provided to the groundwater

assessment program; and the remaining proceeds would be divided 50/50 between the orphan share account and the reclamation and development grant account. **CHAIRMAN DEVLIN** asked for clarification on the \$1.8 million. **Mr. Tubbs** explained that half, \$924,000, goes to reclamation and development grants. **CHAIRMAN DEVLIN** then asked about the 7% out of the metal mines tax, and **Mr. Tubbs** said that also goes to the reclamation and development grants. He said that \$3 million is for the grants themselves, and that that account funds agency appropriations as well. They would receive \$924,000 of RIGWAT taxes and \$830,000 of metal mines tax under these amendments.

**Mr. Tubbs** then moved on to no. 11, which is a coordinating amendment. No. 12 is a side issue that indicates that some of the revenues coming from water projects that are deposited into these accounts will be put into a water storage account that would be to the benefit of those water projects.

**Mr. Tubbs** said that nos. 13 and 14 are coordinating languages. No. 15 is also coordinating language, but that is the reclamation and development grants account. He said that all of the language had been removed where we had tax deposits in that account and here we are putting the tax deposits back into that account, so we have to reconnect the two statutes, and that is what this does.

In answer to a question from **SEN. GLASER**, **Mr. Tubbs** said that there is a significant gain to the renewable resource grants which are funded from the interest earnings. They are increased by \$2 million over the biennium. He said there are over a dozen communities that will benefit from the grants that those will fund, and in addition there's another \$500,000 that can be used for planning grants for communities and other projects over the course of the biennium. Secondly, he said that the groundwater assessment program will be funded at a fixed amount guaranteed for the first time since its existence; and thirdly, the trust itself will increase its deposits by 5% over current law. Those benefits were maintained.

**SEN. GLASER** asked what happens to the RIT development grants, and **Mr. Tubbs** answered that these are funded from interest. These amendments mainly impact the funding for the orphan share accounts, which have been reduced from \$1.8 million to only a \$124,000 increase.

**Mr. Tubbs** said that there was one more critical amendment, no. 16, which states that if **SB 48** is not passed and approved, then this act is void. He said that if **SB 48** doesn't pass, **SB 49** creates a large General Fund impact because it moves the

Department of Natural Resources agencies into the General Fund, and **SEN. SWYSGOOD** wanted to ensure that that did not happen.

In answer to a request by **SEN. ECK** for an analysis of how much of the money allocated to the Department from this fund is really associated with the administration of the fund, **Mr. Tubbs** provided an exhibit that is a corrected version of the one passed out at the hearing reflecting the corrected figures and helps clarify amendment, **EXHIBIT(tas11a02)**. He directed the committee to the front page, the bottom box, where all the appropriations are identified and reflect the agency expenditures. These are not changed in either **SB 48** or **SB 49** because they are not appropriations bills. He said that in working with **SEN. SWYSGOOD**, the Department was able to move almost totally off of its reliance on these funds, but it left \$628,000 in renewable resource funds and \$445,000 in reclamation and development grants appropriations in the DNRC conservation and resource development issue. It is those funds that we use to pay for grants officers, who administer the grants, and loan officers and support staff. Those are the administrative costs. The only other area is the \$1.2 million for appropriations for groundwater assessment, and funds their program.

**Vote:** MOTION CARRIED 6-2 on Amendment SB004901.alh with Eck and Ellingson voting no.

**Discussion on SB 49:**

**SEN. GLASER** said that he intended to vote against **SB 49** because he feels that the oil and gas people are still unhappy. **SEN. ELLINGSON** said he agreed with **SEN. GLASER**, but that also he feels that the committee is being asked to evaluate only part of the fiscal picture. He said he supports the concept that the administration of these programs does not come out of the trust; however, in order to make up that \$6.5 million shortfall, money that is going into the State Lands Trust in the amount of \$6.5 million is going to be diverted from that trust for the administration of state lands. He said he doesn't feel that he has complete information on that whole process to make an informed judgment about the entire fiscal impact.

**Ray Beck, Department of Natural Resources and Conservation**, agreed with **SEN. ELLINGSON'S** comments. He said that the two bills were supposed to go together and somehow they got split up. He said that he would be glad to try to get someone from State Lands to come and address these issues. **SEN. ECK** asked if the other bill will go to Finance and Claims or come to Taxation, and **Mr. Beck** said that it actually was in Natural Resources.

**SEN. GLASER** said that he had a problem with the fact that oil and gas money is being funneled into communities that refuse to support the oil and gas industry, and that distribution is changing. More money is coming to areas that won't support the industry. He said that is his complaint with the bill and he feels that that is the complaint that the oil and gas people have also. **CHAIRMAN DEVLIN** said that there is merit to what **SEN. GLASER** said, but that this committee is not charged with where the distribution of money goes. That is Finance and Claims and comes out in the big bill. He said that this is not a tax bill but a distribution bill.

**SEN. STANG** asked if Taxation could refer it to the committee that the other bill is in so they could be together. **SEN. GLASER** commented that Natural Resources is probably less prepared to talk about this issue than Taxation. He suggested that Taxation could pass it on to the floor and let them handle what happens to it.

**SEN. BOHLINGER** said he had some concerns about where the groundwater assessment program would be funded if it doesn't come from this source of revenue. He said he understands that the funding is provided by the oil and gas industry, but wondered where the groundwater assessment program would be if not here. **SEN. EKEGREN** said there is also a matter of fairness involved, and he feels that perhaps we are not being fair to the gas and oil people.

**CHAIRMAN DEVLIN** said he did not feel comfortable with advancing beyond where we're at right now. He didn't feel the committee would do justice by killing this bill or tabling it. He said he thinks the bill is necessary for the completion of the grants and loans for reclamation. He said that he plans to take this bill to wherever it is that they can understand all the ramifications of how the monies are distributed. He said we are not really changing the tax and a distribution such as this belongs out of this committee.

**Motion/Vote:** **SEN. ECK** moved SB 49 AS AMENDED DO PASS. Motion carried 5-3 with Ekegren, Ellingson and Glaser voting no (Roll call vote #1).

#### EXECUTIVE ACTION ON SB 127

**Mr. Heiman** explained that at the time of the hearing, the Department of Revenue passed out a set of amendments that were housekeeping. He said the Montana Tavern Association testified against that part that said each individual who is authorized to make business decisions had to be licensed. The Department and

the Tavern Owners got together and created this set of amendments that they both agreed upon. Now, instead of the language "make business decisions," they now have "each individual who has control over the operation of the license or shares the profits or liabilities of the license meets the requirements for an individual applicant."

**Motion:** SEN. DEPRATU moved AMENDMENT SB012701.ALH, **EXHIBIT**(tas11a03) .

**Discussion:**

SEN. GLASER asked if these amendments were agreed to by the Department and Mark Staples, and Mr. Heiman said that was correct.

**Vote:** Motion carried 8-0.

**Motion/Vote:** SEN. GLASER moved SB 127 AS AMENDED DO PASS. Motion passed 7-1 with Stang voting no.

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**ADJOURNMENT**

Adjournment: 9:02 A.M.

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SEN. GERRY DEVLIN, Chairman

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SANDY BARNES, Secretary

GD/SB

**EXHIBIT (tas11aad)**